REMARKS

Claims 1-26 were originally filed in the present application.

Claims 1-26 were previously cancelled

Claims 27-50 were previously added.

Claims 27-50 are pending in the present application.

Claims 27-50 were rejected in the December 1, 2005 Office Action.

No claims have been allowed.

No claims are amended herein

Claims 27-50 remain in the present application.

Reconsideration of the claims in light of the following arguments is respectfully requested.

In Sections 1 and 2 of the December 1, 2005 Office Action, the Examiner rejected Claims 27-31 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,671,259 to He, et al. (hereafter, simply "*He*"). In Sections 3-4 of the Office Action, the Examiner rejected Claims 32-38 under 35 U.S.C. 103(a) as being unpatentable over *He* in view of U.S. Patent Application Publication No. 2004/0039820 A1 to Colby, et al. (hereafter, simply "*Colby*"). In Section 5 of the Office Action, the Examiner rejected Claims 39-43 under 35 U.S.C. 103(a) as being unpatentable over *He* in view of U.S. Patent No. 5,754,959 to Ueno, et al. (hereafter, simply "*Ueno*"). In Section 6 of the Office Action, the Examiner rejected Claims 44-50 under 35 U.S.C. 103(a) as being unpatentable over *He* in view of *Ueno* in further view of *Colby*. The Applicant respectfully traverses these rejections.

The *He* reference describes a system including a network connecting client systems with servers, such as print servers or file servers. *He, col. 1, lines 11-29*. Traditionally, a client directly requests a server to perform a task. *He, col. 1, lines33-36*. The system of *He* provides for balancing the loading of servers in a network by using load balancing server (LBS) selectors and load balancing (LB) servers. *He, col. 2, line 66, to col. 3, line 1*. Referring to Figure 1, the *He* reference explains that when a client system requests the load balancing system to assign a server to a client system request, "the LBS selector resolves, or interprets, the request from the client system to determine [an] appropriate LB server for the request. The LB server then selects one of the servers amongst a group of servers to receive the client request." *He, col. 3, line 66, to col. 4, line 4*.

Claim 27 is reproduced below for the Examiner's convenience. Individual clauses of the claim are numbered for ease of reference in subsequent arguments.

27. [*C1*] A controller for allocating call identity values to call connections associated with a switch, said switch capable of handling call connections between calling devices and called devices on a plurality of trunk lines associated with said switch, said controller comprising:

[*C2*] N call application nodes capable of executing a plurality of identity server processes that allocate call identity values to said call connections; and

[*C3*] a load sharing group, selecting one of a first and second identity server processes to allocate a call identity value to a new call connection according to a load distribution algorithm,

[*C4*] wherein said first identity server process comprises a first primary-backup identity server group, comprising,

[*C5*] a first primary identity server application, executing on a first call application node, and

[*C6*] a first backup identity server application, associated with said first primary identity server application,

and wherein, responsive to a failure of the first primary identity server application, the first backup identity server application assumes the role of first primary identity server application. (*References added*)

Thus, the claim recites a controller for allocating call identity values. The controller includes N call

application nodes that execute identity server processes. When a call identity value is to be

allocated, a load sharing group in the controller allocates an identity server process to allocate the

call identity value. The identity server process includes a primary identity server application and a

backup identity server application. If the primary application fails, the backup application assumes

its role.

The Examiner's rejection of Claim 27 is reproduced below, with individual clauses of the

rejection numbered for ease of reference.

> Regarding claim 27, [*OA1*] He teaches of a controller for allocating call identity
> values to call connections associated with a switch (column 10, lines 43-46; where a
> processor has control functions. See also, figure 4, item 145; columns 5 and 6, lines
> 57-67 and 1-29, respectively), the switch capable of handling call connections
> between calling devices and called devices on a plurality of trunk lines associated
> with the switch (columns 1 and 2, lines 6-10 and 18-19; where the data calls are
> established from client to server), the controller comprising:
>
> [*OA2*] N call application nodes capable of executing a plurality of identity server
> processes that allocate call identity values to the call connections (columns 1 and 2,
> lines 24-30 and 16-38, respectively; where the nodes are the servers and where the
> allocation of call identity values requires certain processes to be performed in order
> to complete the allocation);
>
> [*OA3*] and a load sharing group, selecting one of a first and second identity server
> processes to allocate a call identity value to a new call connection associated with the
> call identity request according to a load distribution algorithm (column 3, lines 49-54
> and 58-61, respectively and column 4, lines 1-5; e.g., "selected server performs the
> task required by the client system"),
>
> [*OA4*] where the first identity server application comprises a first primary-backup
> group server application (column 12, lines 55-65; e.g., "...a second LBS selector can
> act as a backup to a first LBS selector..."),
>
> [*OA5*] where the first identity server process comprises a first primary-backup
> identity server group (column 3, lines 30-39; where group of servers 9a comprise
> servers that perform the same services, tasks, therefore, backing up the service of the

original server employed for a certain service or task. Also, column 12, lines 55-65; e.g., "... if LBS selector Fl becomes inoperable, LBS selector Bi is activated and thereby quickly replaces the LBS selector Fl"),

[*OA6*] a first primary identity server application, executing on a first call application node and a first backup identity server application associated with the first primary identity server application (column 12, lines 55-65; e.g., "...if LBS selector Fl becomes inoperable, LBS selector B1 is activated and thereby quickly replaces the LBS selector Fl"),

and where, responsive to a failure of the first primary identity server application, the first backup identity server application assumes the role of first primary identity server application (column 3, lines 30-39; where group of servers 9a comprise servers that perform the same services, tasks, therefore, backing up the service of the original server employed for a certain service or task. Also, column 12, lines 55-65; e.g., "...if LBS selector Fl becomes inoperable, LBS selector BI is activated and thereby quickly replaces the LBS selector Fl"). (*References added*)

In clause *OA1*, the Examiner asserts that *He* discloses the elements of clause *C1* "the switch capable of handling call connections between calling devices and called devices." The Examiner clarifies that "the data calls are established from client to server," thus asserting that the servers of *He* teach the called devices of the claim preamble.

Claim 27 is directed to a controller, and clauses *C2-C6* recite limitations of the claimed controller, that is, elements that comprise the controller. Clause *C2* recites N call application nodes. The Examiner asserts in clause *OA2* that *He* teaches this limitation of the claim, stating "the nodes are the servers." Thus, in the Examiner's analysis, the servers of *He* also teach the call application nodes of the claimed invention, as well as teaching the called devices of the preamble.

In clause *OA3*, the Examiner asserts that a limitation of clause *C3*, "a load sharing group, selecting one of a first and second identity server processes," is also disclosed in *He*, where a "selected server performs the task required by the client system." Thus the Examiner argues that the

servers of *He* teach the identity server processes of the claimed invention, as well as teaching call application nodes, as well as teaching the called devices of the preamble.

The Examiner fails to explicitly identify any teaching in *He* of the recited load sharing group. The identification of servers as describing identity process servers, however, implies that the recited load sharing group may be found in a group of servers.

Clause *C4* recites the limitation that the "first identity server process comprises a first primary-backup identity server group." In clause *OA4*, in language apparently retained from page 3, lines 19-21 of the Office Action mailed June 6, 2005, the Examiner asserts that the limitation "the first identity server application comprises a first primary-backup group server application" is disclosed in *He*, where "a second LBS selector can act as a backup to a first LBS selector." Applying the rejection to the current language of the claim, the Examiner equates a pair of the *He* LBS selectors with the recited identity server group of the claimed invention. Thus, combining clauses *OA3* and *OA4*, the Examiner argues that the servers of *He* teach identity server processes and that a component element of an identity server process, an identity server group, is found in the LBS selectors of *He*. Servers and LBS selectors are independent elements of the *He* system and, therefore, the Applicant respectfully submits that LBS selectors cannot teach a component of an element allegedly described by a server.

Again addressing the elements of clause *C4*, in clause *OA5* the Examiner reasserts that a pair of LBS selectors describes a primary-backup identity server group. The Examiner further argues that a group of servers also discloses a primary-backup identity server group, thereby implying that

servers teach primary and backup identity server applications, as well as teaching identity server processes, as well as teaching call application nodes, as well as teaching the called devices of the preamble. In combination with the assertion in clause *OA2* that servers teach call application nodes, this produces the circular argument that servers teach both an identity server application and the call application node on which it executes (see clause *C5*).

In clause *OA6* the Examiner addresses the limitations recited in both clauses *C5* and *C6*. The Examiner asserts that a first LBS selector of *He* discloses the recited primary identity server application and a second LBS selector discloses the recited backup identity server application. The Applicant notes that the primary identity server application, as claimed, executes on a first call application node. In clause *OA2*, the Examiner equated the server of *He* with the call application node, so in clause *OA6* the Examiner is arguing that the LBS selector teaches an application that executes on a server. Again, servers and LBS selectors are independent elements of the *He* system and, therefore, the Applicant respectfully submits that LBS selectors cannot teach an application that executes on a server.

In summary, the claim recites a controller associated with a switch, the controller comprising six elements and sub-elements: call application nodes (*C2*), a load sharing group (*C3*), identity server processes (*C2-C4*), a primary-backup identity server group (*C4*), a primary identity server application (*C5*), and a backup server identity application (*C6*). In various clauses of the rejection the Examiner asserts that the server of the *He* reference teach:

- called devices involved in call connections handled by the switch (*OA1*),

- call application nodes (*OA2*),

- identity server processes (*OA3*), and

- identity server applications (*OA5*).

Furthermore, the Examiner asserts that the LBS selectors of *He* also disclose identity server applications (*OA4, OA5* and *OA6*). Thus, despite the teaching in *He* that an LBS selector selects an LB server, which in turn selects a server, the Examiner argues that the LBS selector describes a claim element that comprises and executes on another claim element, purportedly taught by the *He* server.

For these reasons, the Applicant respectfully asserts that the *He* reference fails to describe every element of Claim 27. Furthermore, the Applicant submits that the *Colby* and *Ueno* references do nothing to overcome this shortcoming of the *He* reference. This being the case, Claim 27 presents patentable subject matter over the *He* reference. Additionally, dependent Claims 28-38, which depend from Claim 1, contain all of the unique and novel limitations recited in independent Claim 27. Claims 28-38 are therefore patentable over the *He* and *Colby* references.

Furthermore, independent Claim 39 recites limitations that are analogous to the unique and novel limitations recited in Claim 27. This being the case, Claim 39 is patentable over the *He* reference and the *Ueno* reference. Dependent Claims 40-50, which depend from Claim 39, contain all of the unique and novel limitations recited in independent Claim 39. Thus, Claims 40-50 are patentable over the *He, Ueno* and *Colby* references.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.
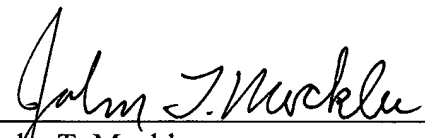
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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